

EXHIBIT “B”



Order Filed on March 16, 2023
by Clerk
U.S. Bankruptcy Court
District of New Jersey

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

Caption in compliance with D.N.J. LBR 9004-1(b)

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Renewal, LLC*

In Re:

HOLLISTER CONSTRUCTION SERVICES, LLC,

Debtor.

BAK ADVISORS, LLC, LIQUIDATING TRUSTEE OF
HOLLISTER CONSTRUCTION LIQUIDATING TRUST,

Plaintiff,

v.

ACCORDIA HARRISON URBAN RENEWAL, LLC,

Defendant.

Chapter: 11

Case No. 19-27439 (MBK)

Adversary No. 22-01276

Judge: Michael B. Kaplan, C.U.S.B.J.

**CONSENT ORDER FOR THE ENTRY OF A JUDGMENT ON APRIL 16, 2023
SUBJECT TO THE TERMS AND CONDITIONS SET FORTH HEREIN**

DATED: March 16, 2023

A handwritten signature in black ink, appearing to read "Michael B. Kaplan".
Honorable Michael B. Kaplan
United States Bankruptcy Judge

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Debtor: HOLLISTER CONSTRUCTION SERVICES, LLC
Case No.: 19-27439 (MBK)
Adversary Case No. 22-01276
Caption of Order: CONSENT ORDER FOR THE ENTRY OF A JUDGMENT ON APRIL 16, 2023 SUBJECT TO THE TERMS AND CONDITIONS SET FORTH HEREIN.

THIS CONSENT ORDER having been submitted to the Court on joint application of Defendant, Accordia Harrison Urban Renewal LLC ("AHUR") and BAK Advisors, LLC, Liquidating Trustee of Hollister Construction Liquidating Trust ("Plaintiff" or "Trustee" or "LT"), pursuant to the terms and conditions set forth below.

WHEREAS, Debtor, Hollister Construction Services, LLC ("Hollister") and AHUR are parties to certain contract documents dated as of September 25, 2017, including, without limitation, certain AJA Documents, A201 and AIOI, and all exhibits annexed thereto, and all subsequent riders, modifications, and change orders relating to construction of 700 Frank E. Rogers Boulevard, Harrison, New Jersey (the "Project"); and

WHEREAS, on September 11, 2019 ("Petition Date"), Hollister filed a voluntary petition under Chapter 11, Title 11 of the United States Code (the "Bankruptcy Code"), in the United States Bankruptcy Court for the District of New Jersey (the "Bankruptcy Court"), Case No. 19-27439 (MBK) (the "Bankruptcy Case"); and

WHEREAS, AHUR and its subcontractors have provided goods and/or services to the Project; and

WHEREAS, the Debtor's Plan was confirmed and an Order confirming the Debtor's First Amended Plan of Liquidation was entered on April 16, 2021, wherein the effective date of the Plan occurred on April 30, 2021, a Liquidating Trust was formed pursuant to the confirmed Plan, and Plaintiff, BAK Advisors, LLC is the Liquidating Trustee of the Hollister Construction Liquidating Trust; and.

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Debtor: HOLLISTER CONSTRUCTION SERVICES, LLC
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WHEREAS, on December 13, 2019, the Debtor and AHUR entered into a Settlement Agreement (the "Bankruptcy Settlement Agreement") in the Bankruptcy Case which Bankruptcy Settlement Agreement was approved by the Court on February 5, 2020; and

WHEREAS, certain payments were to be made by AHUR pursuant to the terms and conditions of that Bankruptcy Settlement Agreement; and

WHEREAS, disputes have arisen among the parties as the payments which were to be paid pursuant to the terms and conditions of that Bankruptcy Settlement Agreement; and

WHEREAS, LT filed a Construction Lien on or about October 6, 2020 related to alleged Owner' s payment obligations for the Project, (the "Hollister Liens"); and

WHEREAS, AHUR is desirous of completing the Project forthwith and with as little delay as possible; and

WHEREAS, on December 4, 2020 an Amendment To The Settlement Agreement By And Between Hollister Construction Services, LLC And The Project Owner was entered into and approved by the Court on that date (Docket 1522); and

WHEREAS, on July 14, 2022, a Second Amendment To The Settlement Agreement By And Between LT, the Project Owner AHUR (the "Second Amendment") which Second Amendment has not yet been presented for approval by the Court, but which has been executed by AHUR and the LT; and

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WHEREAS, disputes have arisen regarding AHUR's compliance with the Tennes and Obligations set forth in the Second Amendment which resulted in the filing of this Adversary Proceeding under docket No. 22-01276 alleging breaches and damages on the Project; and

WHEREAS, A Consent Order was Entered waiving Defendant's ability to file a responsive pleading to the Adversary Proceeding; and

WHEREAS, LT applied for Default Judgment and a Proof Hearing was scheduled for March 16, 2023; and

WHEREAS, AHUR and the Trustee have reached agreement for the entry of a Consent Judgment on April 16, 2023 with terms and conditions;

NOW, THEREFORE, for good and sufficient cause having been shown, and based on the agreement of AHUR and the Trustee it is as followed ORDERED:

1. Judgment shall be deemed entered against AHUR and in favor of LT in the amount of \$2,156,741.09 on April 16, 2023, unless AHUR satisfies the following terms and conditions which are Time of the Essence.

2. AHUR represents that it shall make all payments due pursuant to the Second Amendment which shall be fully satisfied on or before April 16, 2023. **Time is of the Essence.**

3. As of March 16, 2023, AHUR's payoff obligation pursuant to the Second Amendment is \$1,310,000.00.00 (\$1,170,000.00 as of July 14, 2022 plus \$500 per diem pursuant to the Settlement Agreement Second Amendment for 245 days totaling \$122,500.00, and in addition litigation costs and expenses of \$17,500.00). Per diem costs of \$500 pursuant to the

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Second Amendment shall continue to accrue until payment in full as set forth therein is received so long payment is received in full by April 16, 2023, Time is of the Essence. In other words, a \$500 per diem shall continue to be added and accrue for any payoff received after March 16, 2023 through and including April 16, 2023. (The \$1,310,000.00 obligation plus the applicable per diem interest through April 16, 2023 shall hereinafter be referred to as the "Payoff Obligation") In the event payment in full is not made pursuant to the Second Amendment on or before April 16, 2023, then the per diem fee from and after April 17, 2023s shall increase from \$500 to \$1,000 which will be added to the payoff Judgment amount and shall continue to accrue until payment in full pursuant to the Judgment is received .

4. Mitchell J. Malzberg, Esquire, as the Substituted Escrow Agent, is holding \$1,170,000.00 (the "Escrow Payment") pursuant to Paragraph 3 of the Second Amendment. Immediately upon entry of this Order, the Escrow Payment shall be released and turned over to the LT without prejudice and with a full reservation of the rights of the LT to enter judgement in favor of the LT and enforce the Construction Lien in the event that AHUR's obligations are not satisfied. The \$1,170,000 will be applied to satisfy a portion of AHUR's obligations to Hollister but does not reduce the amount of the judgment as the judgment amount already takes into account the release of the escrow monies.

5. On or before April 16, 2023, AHUR shall fully satisfy the judgment entered in favor of J.M. Pereira and Sons Inc. in Case No. 19-27439 (MBK) on July 27, 2022 in the amount of \$194,968.90 ("Pereira Judgment") plus accrued interest.

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6. On or before April 16, 2023, AHUR shall furnish proof to counsel to LT that contractor DCI Signs has been paid for all work performed.

7. If payment in full of the Payoff Obligation and satisfaction of the Pereira Judgment, and DCI Signs obligation is made then LT and AHUR shall make joint application to the Comt for approval of the Second Amendment on notice to all subcontractors and parties in interest.

8. If AHUR complies with all the terms and conditions set forth herein then AHUR may, after Comi Approval of the Second Amendment, file the Hollister construction lien discharge, as previously provided, pursuant to Section 27 of the Second Amendment. AHUR may file the Second Amendment together with any approval Order with the recorder of deeds of Hudson County New Jersey or any other property register for the purpose of terminating any and all liens, claims and encumbrances filed by Hollister. If AHUR's full payment obligation is not received, the construction lien shall not be discharged until full satisfaction of the judgment and can be fmther amended to reflect the Judgment amount.

9. After Court approval of the Second Amendment, any pre-petition and/or post-petition retainage monies shall be released to the subcontractors pursuant to the terms and conditions of the Second Amendment.

10. If AHUR timely complies with the terms and conditions outlined above in Paragraphs 2-9 hereinabove, then such documents as reasonably necessary shall be provided by the LT to AHUR to acknowledge that the obligations under the Second Amendment and this Order were satisfied.

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11. A Judgment shall be entered on April 16, 2023 if AHUR fails to comply with the obligations set forth in Paragraphs 2-9 on or before April 16, 2023.

12. If AHUR fails to comply with the terms and conditions outlined above in Paragraphs 2-9 which shall be Time of the Essence, the Trustee shall proceed to enforce the Judgment and the Construction Lien with any and all remedies available to Trustee. The LT can notify the court to enter the Judgment annexed hereto as Exhibit "A" on e-mail submission to Chambers on notice to AHUR counsel.

13. AHUR and Trustee agree that the Judgment amount in Paragraph 1 hereinabove was calculated as of March 1, 2023 and that the amount can, and is anticipated to fluctuate, increasing or decreasing depending upon any additive or deductive change orders or any amounts paid by AHUR to subcontractors. AHUR and the Trustee agree to reasonably calculate the judgment amount taking into account any such changes occurring between March 1, 2023 and April 16, 2023. LT recognizes that it is not entitled to collect more than it is owed. In other words, if the calculation as of April 16, 2023 is less than the Judgment amount in Paragraph 1 above, LT shall only collect the calculated amount plus any accrued per diem. The proposed judgment may be further amended by either party on application based upon any such change of circumstances.

14. As stated above, after April 16, 2023, if payment has not been made by AHUR then the judgment shall accrue a per diem of \$1,000 per day until the Judgment has been fully satisfied.

15. In the event a judgment is entered and subsequently satisfied, a Warrant to Satisfy Judgment shall be provided and filed by the LT.

EXHIBIT "A"

LAW OFFICES OF MITCHELL J. MALZBERG, LLC
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Counsel to the Liquidating Trustee/Plaintiff

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY

<p>In the Matter of:</p> <p>HOLLISTER CONSTRUCTION SERVICES, LLC</p> <p>Debtor.</p>	<p>Chapter 11</p> <p>Case No. 19-27439/MBK</p>
<p>BAK Advisors, LLC as the Liquidating Trustee of Hollister Construction Liquidating Trust</p> <p>Plaintiff,</p> <p>v.</p> <p>Accordia Harison Urban Renewal, LLC</p> <p>Defendant.</p>	<p>Adv. Pro. No. 22-01276/MBK</p>

ORDER ENTERING JUDGMENT

The relief set forth on the following page, numbered two (2) through three (3) is hereby
ORDERED.

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Urban Renewal, LLC
Caption: ORDER ENTERING JUDGMENT

THIS MATTER having been brought before the Court by counsel to BAK Advisors, LLC Liquidating Trustee of the Hollister Construction Liquidating Trust and Plaintiff herein, for Entry of Judgment, and the parties having entered into a Consent Order relating to this matter, and the Court, after due deliberation and good cause shown, it is hereby,

ORDERED AND ADJUDGED that pursuant to a Consent Order entered into between the parties, Judgment be and hereby is entered against the Defendant, Accordia Harrison Urban Renewal, LLC and in favor of the Plaintiff in the amount of \$2,156,741.09, and it is further,

ORDERED AND ADJUDGED the aforementioned judgment amount includes an additional \$100,000.00 which was agreed to by AHUR to be added to the judgment for AHUR's failure to make the payments and comply with the terms and conditions of the Consent Order dated March 16, 2023, and it is further,

ORDERED AND ADJUDGED the within judgment shall accrue a per diem interest of \$1,000 per day until the judgment has been fully satisfied, and it is further,

ORDERED AND ADJUDGED that there is a valid, filed, and recorded lien claim against the Defendants interest in real property described as Block 133, Lot 1.04 on the tax map of the Town of Harrison, County of Hudson, State of New Jersey by way of Plaintiff's filings made with the Hudson County Clerk's Office on April 20, 2022 and thereafter amended and filed on August 23, 2022, and if necessary to be further amended, and it is further,

ORDERED AND ADJUDGED that the aforesaid debt is a lien on the real property of the Defendants interest in real property described as Block 133, Lot 1.04 on the tax map of the Town of Harrison, County of Hudson, State of New Jersey by virtue of the provision of the Construction

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Lien Law of the State of New Jersey, bearing N.J.S.A. Title 2A, Chapter 44A, Title 6 and that said sums shall be made of and from the said land by way of foreclosure, and it is further,

ORDERED AND ADJUDGED that a copy of this Order be served upon all parties within five (5) days of entry.